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CONTACT: Charles E. Smrt, NCAA Director of Enforcement

MARSHALL UNIVERSITY INFRACTIONS REPORT

by the NCAA Committee on Infractions

OVERLAND PARK, KANSAS--This report is organized as follows:

I. Introduction.

II. Violations of NCAA legislation, as determined by committee.

III. Committee on Infractions penalties.

I. Introduction.

On March 9, 1989, Marshall University self-reported several possible violations in the sport of men's basketball to the NCAA enforcement department. The university conducted an investigation and submitted a report of its findings to the NCAA on May 15, 1989. Additional violations were reported by the university in June 1989, and, based upon a review of the self-reported violations, an official inquiry was sent to the university by the enforcement department on October 12, 1989. On January 14, 1990, a prehearing conference was held with the university and on January 19, 1990, with the counsel for the former men's head basketball coach who had resigned in April 1989. Subsequently, on February 4, 1990, the Committee on Infractions held a hearing with the university and the former head coach in Coronado, California.

The case was presented to the committee as a self-report with the primary information being developed by the university, its counsel and members of its staff. The committee found a series of violations which includes: improper inducements to prospective student-athletes; improper benefits to enrolled student-athletes (e.g., gifts of cash, athletics clothing, jewelry and, in one instance, the payment of a loan); the payment by the former head coach of hotel expenses for the family of an enrolled student-athlete; improper arrangements of housing at no cost to several student-athletes, and a series of violations involving local transportation, an improper recruiting contact at a junior college and payment of incidentals for prospective student-athletes on their official paid visits. Most of the violations were known or should have been known by the [Page 2] men's basketball coaching staff. The committee was especially concerned about a pattern of violations that provided support for student-athletes who were nonqualifiers or who were otherwise academically ineligible to receive institutional financial aid.

The case originated when the university discovered that a junior college transfer student-athlete had received an unsecured loan from a local bank. The young man had been referred to the bank by a member of the basketball coaching staff where a loan was arranged by a representative of the university's athletics interests. Ostensibly, it was to be a "bridge loan" until the young man

received moneys from his Pell Grant, but the student-athlete failed to apply for a Pell Grant and left the institution without paying off the loan.

The most serious violations involved arrangements for off-campus housing for certain student-athletes (nonqualifiers) at little or no cost to the young men. For several years, the university had a "foster parent" program for men's basketball team members. Under restricted conditions, such programs were permissible until 1986 when they were prohibited altogether. Under no circumstances, however, were foster parents permitted to give free housing, regular meals or to provide loans of money. In 1986, 1987 and 1988, members of the men's basketball staff, including the head coach, arranged for members of the team who were not eligible for financial aid to receive housing from local families ostensibly in the foster parent program. In addition, improper benefits were received in some instances.

Also, it should be noted that the committee found that the then men's head basketball coach violated NCAA standards of ethical conduct in that he knowingly and willfully operated the men's basketball program contrary to NCAA requirements through his actions as described in the findings in this case. Further, the committee found that the university itself did not exercise effective institutional control either within the men's basketball program in particular or within the athletics department administration in general during the period of these violations. Further, during the years in which violations occurred in this case, the men's basketball team enjoyed success in its conference and participated on one occasion in the National Collegiate Division I Men's Basketball Championship and once in the National Invitational Tournament.

The committee determined that several of the violations found were major in nature, neither isolated nor inadvertent, and calculated to and did result in substantial recruiting and competitive advantages. Because these violations occurred after September 1, 1985, the committee's findings normally would subject the university to a minimum prescribed penalty for major violations, which would include at least: a two-year probationary period, elimination of expense-paid recruiting visits for at least one year, elimination of off-campus recruiting for at least one year, possible termination of the employment of all staff members who condoned the violations, the loss of postseason competition and television appearance opportunities for at least one year, and institutional recertification of compliance. Under the terms of the NCAA legislation that establishes minimum penalties for a major infractions case, however, [Page 3] the Committee on Infractions may impose lesser penalties if it determines that the case is "unique."

Ordinarily, unique circumstances that justify relief from the Association's mandatory penalties include factors such as: prompt detection of violations; investigating and reporting violations to the NCAA; cooperating in the processing of the case, and initiating strong corrective and disciplinary measures prior to the committee's hearing. The committee gives great weight to such institutional actions in deciding the extent to which a case presents unique circumstances. Other circumstances, although not as significant as these institutional measures, also may warrant viewing a major case as unique for some purposes.

In this regard, the committee determined that this case was unique in some respects. Although the university gained recruiting and competitive advantages as a result of the violations found in this case, the university self-detected and diligently investigated the violations, and self-reported

all of the violations found (with the exception of the ethical conduct finding for the former head basketball coach) to the NCAA. Moreover, the university took substantial actions itself, obtained the resignation of the head coach in part for violations found, and imposed grant-in-aid restrictions and other limitations upon its basketball program.

The penalties imposed by the committee include: placing the university on probation for two years, declaring the men's basketball team ineligible for all preseason and postseason play during the 1990-91 season, returning income derived from NCAA postseason play in 1987 and requiring the university to show cause why it should not be penalized further if it fails to disassociate the representatives of athletics interests and other individuals who were found to have been involved in violations in this case. Furthermore, the committee adopted the actions taken by the university in regard to limits on grants-in-aid and official paid visits for prospective student-athletes. Finally, the former men's head basketball coach who was found to have engaged in unethical conduct in this case shall be required to appear before the committee in the event he seeks employment in an athletically related capacity at an NCAA member institution within the next five years.

II. Violations of NCAA legislation, as determined by committee.

A. [NCAA Bylaw 16.12.2.3]

In January 1989, the balance of a loan for a recruited transfer student-athlete in the sport of men's basketball who was not eligible for institutional financial aid was repaid in cash at no cost to the young man. Specifically, in September 1988, a former member of the men's basketball coaching staff referred the young man to a local bank where he received a \$2,000 loan through the arrangements of a representative of the university's athletics interests; further, the loan was to be repaid after the young man received Pell Grant funds; [Page 4] however, the young man withdrew from the university without applying for a Pell Grant or repaying the loan.

B. [NCAA Bylaws 2.1.1, 13.2.2 and 16.12.2]

On several occasions during the period October 1986 to May 1989, several prospective and enrolled student-athletes in the sport of men's basketball resided in the homes of representatives of the university's athletics interests at no cost to the young men; further, in some instances, members of the men's basketball coaching staff were aware that these representatives lodged student-athletes, and the staff members failed to take affirmative action to ensure compliance with NCAA legislation, and finally, on at least one occasion, a representative provided small cash loans to a student-athlete and bought gas for the young man's automobile. Specifically:

1. During a six-week period in July and August 1987, a prospective student-athlete resided in the home of two representatives of the university's athletics interests prior to the young man's enrollment in the university; further, the graduate assistant coach discussed this housing with the representatives.
2. For a two-week period in August 1987, a transfer student-athlete who was not eligible for institutional financial aid resided in the home of two representatives of the university's athletics

interests; further, at the direction of a then men's assistant basketball coach, a secretary in the basketball office discussed this lodging with the family.

3. During the period October to December 1986, a student-athlete who was a 2.000 nonqualifier resided in the home of two representatives of the university's athletics interests at no cost to the young man; further, the then men's head basketball coach discussed the lodging arrangement with the family.

4. During the 1987-88 academic year, a transfer student-athlete who was not eligible for institutional financial aid resided in the home of two representatives of the university's athletics interests at no cost to the young man; further, at the direction of a then men's assistant basketball coach, a secretary in the men's basketball office discussed this lodging with the family.

5. During the 1986 Christmas holiday season, from mid-July until August 1987, from April until June or July 1988, and irregularly during the 1988-89 academic year, a student-athlete resided in the home of two representatives of the university's athletics interests at no cost to the young man; further, the student-athlete borrowed small amounts of cash from the representatives (and later repaid each loan), and the representatives occasionally bought gasoline for the student-athlete's automobile; further, the young man was registered in a campus dormitory room during these periods. [Page 5]

C. [NCAA Bylaw 16.12.2.3]

On a weekend, during the 1986-87 basketball season, the then men's head basketball coach paid lodging and expenses at a local hotel on behalf of the family of a student-athlete.

D. [NCAA Bylaw 16.12.2.3]

During the 1984-85, 1985-86, 1986-87, 1987-88 and 1988-89 academic years, the then men's head basketball coach provided various gifts to student-athletes in the sport of men's basketball. Specifically:

1. At Christmas and on several other occasions during the period 1985 through 1989, the then head coach provided gifts to several student-athletes, including \$50 cash on two occasions, a satin university jacket (\$19), a university corduroy jacket (\$28.50), a university warm-up suit sweat shirt (\$15.50) and a warm-up suit (\$50.00); further, the source of these funds was an individual who provided the money to the then head coach without realizing it would be distributed to the student-athletes.

2. During the 1984-85 basketball season, the then head coach ordered gold charms for all 15 members of the men's basketball team; further, a local jeweler designed the charm and donated them to the then head coach; further, the then head coach ordered additional charms for three new members of the 1985-86 team and five new members of the 1986-87 team.

E. [NCAA Bylaw 16.12.2.3]

On various occasions during the past several academic years, numerous student-athletes were provided local automobile transportation by then members of the university's basketball coaching staff.

F. [NCAA Bylaw 13.4.2]

On March 25-27, 1988, during the official paid visits to the university's campus of two prospective student-athletes from a community college, the young men charged satellite television movies to their hotel room, and this bill (\$80.04) was paid by the institution.

G. [NCAA Bylaws 13.2.1 and 13.5.2.3.3]

On March 25 and 27, 1988, during the official paid visits to the university's campus of two prospective student-athletes from a community college, a private charter aircraft company hired by the institution improperly charged the university for the cost of air transportation for the young men to travel from the community college to Huntington, West Virginia. Specifically, the private charter aircraft company [Page 6] charged the athletics department a rate of \$75 per hour for 12 hours for a total of \$900 for this flight when, in fact, the university should have been charged the normal rate for the charter service of \$100 per hour, a savings of approximately \$300 to the institution.

Further, another prospective student-athlete from the community college accompanied the young men on this visit and was charged (and he paid) his share of the actual flight time and not the "dead head" time.

H. [NCAA Bylaw 13.1.4.9-(b)]

On April 11 and 12, 1988, during a period when members of the men's basketball coaching staff could not travel off campus under NCAA legislation, the then men's head basketball coach visited a junior college campus, contacted members of the junior college's men's basketball coaching staff and attended a local booster club luncheon for the junior college; further, three prospective student-athletes at the junior college were being recruited by the institution at that time.

I. [NCAA Bylaws 10.1 and 10.01.1]

A former men's head basketball coach acted contrary to the principles of ethical conduct inasmuch as he did not, on all occasions, deport himself in accordance with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics in that the former coach demonstrated a knowing and willful effort on his part to operate the university's intercollegiate men's basketball program contrary to the requirements and provisions of NCAA legislation by his involvement in the violations in this report.

J. [NCAA Constitution 2.1.1 and 2.5.1]

During the period in which the violations in this case occurred, the university did not maintain proper institutional control over its men's basketball program in that there: (1) was no consistent monitoring of the program by the athletics department administrative staff; (2) was insufficient control of the "foster parent" program and no evidence to indicate that such a program was specifically discontinued after the prohibition of such programs in 1986, and (3) were insufficient rules and compliance programs in place to properly educate the athletics staff. Finally, the manner in which the former men's head basketball coach operated the program was outside institutional control. [Page 7]

III. Committee on Infractions penalties.

The committee determined that this case was major in nature, and that these violations were not isolated or inadvertent, and were calculated to and did gain substantial recruiting and competitive advantages. Because these violations occurred after September 1, 1985, the committee's findings normally would subject the university to minimum penalties, which would include at least: a two-year probationary period, elimination of expense-paid recruiting visits to the institution in the involved sport for at least one recruiting year, elimination of off-campus recruiting for at least one year, possible termination of the employment of all staff members who condoned the violations, the loss of postseason competition and television appearance opportunities for at least one year, and institutional recertification of compliance. Under the terms of the NCAA legislation that establishes minimum penalties for a major rules violation, however, the Committee on Infractions may impose lesser penalties if it determines that the case is "unique."

Ordinarily, unique circumstances that justify relief from the Association's mandatory penalties include factors such as: prompt detection of violations; investigating and reporting violations to the NCAA; cooperating in the processing of the case, and initiating strong corrective and disciplinary measures prior to the committee's hearing. The committee gives great weight to such institutional actions in deciding the extent to which a case presents unique circumstances. Other circumstances, although not as significant as these institutional measures, also may warrant viewing a major case as unique for some purposes. In this regard, the committee determined that this case was unique in some respects, even though the university gained recruiting and competitive advantages, because the university self-detected the violations, promptly reported them to the NCAA, and engaged in a vigorous and diligent investigation that resulted in an admission of most of the violations. Moreover, the university took substantial actions by accepting the resignation of the head coach and other members of the basketball staff, imposing grant cuts and other limitations upon its basketball program, and establishing an extensive monitoring and compliance program.

A. The university shall be publicly reprimanded and censured, and placed on probation for a period of two years from the date these penalties are imposed, which shall be the date the 15-day appeal period expires or the date the institution notifies the executive director that it will not appeal, whichever is earlier, or the date established by NCAA Council subcommittee action in the event of an appeal, it being understood that should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Further, Marshall University shall be

subject to the provisions of NCAA Bylaw 19.4.2.3 concerning repeat violators for a period beginning on the effective date of the penalties in this case. [Page 8]

B. The university's men's basketball team shall end its 1990-91 season with the playing of its last regularly scheduled in-season contest and shall not be eligible to participate in postseason competition following that season. In addition, the men's basketball team may not participate in a foreign tour in the summer of 1990 or following the 1990-91 season; further, the men's basketball team may not play any of its regular-season contests outside the continental United States during the 1990-91 season. Moreover, the men's basketball team may not take advantage of any exceptions to the limitation in the number of basketball contests that are provided in Bylaws 17.3.3.1 and 17.3.5.4 regarding preseason contests (or contests outside of the continental United States) during the 1990-91 season.

C. The committee has found that student-athletes who were ineligible to represent the university (and student-athletes who the institution's coaching staff knew or should have known were ineligible) represented the university in the 1987 National Collegiate Division I Men's Basketball Championship [reference: Parts II-C and II-D of this report]. Therefore, under the terms of Bylaw 31.2.2.4, the record of the individuals' and the team's performances in that championship shall be deleted, and the team's place finish in the final standings shall be vacated. Additionally, under the terms of Bylaws 19.4.2.1-(k) and 31.2.2.5, the Committee on Infractions and the NCAA Executive Committee shall consider whether the institution should be required to return up to 90 percent of the net receipts earned by the university in that event. In that regard, the Committee on Infractions will recommend to the Executive Committee that the institution return the university's share of receipts after distributions to the Southern Conference office and other institutions in that conference. This net share totals \$42,241.

D. During the period of probation, the university shall report annually on July 1, 1990, and July 1, 1991, in writing to the NCAA enforcement staff and the Committee on Infractions the actions the institution has taken to ensure that its full athletics program is in compliance with NCAA legislation and to implement those actions it self-imposed, particularly the monitoring of housing for student-athletes on athletically related financial aid.

E. The university shall be prohibited from providing any expense-paid visits to the institution for prospective student-athletes in men's basketball during the 1990-91 and 1991-92 academic years. [NOTE: This penalty is immediately and completely suspended based on the mitigating factors set forth above.] The committee adopts as its own penalty the university's self-imposed reduction of three official paid visits each for the 1989-90 and 1990-91 academic years.

F. During the 1990-91 and 1991-92 seasons, the university shall be prohibited from offering any additional grants-in-aid in the sport of [Page 9] men's basketball. [NOTE: This penalty is immediately and completely suspended based on the mitigating factors set forth above.] The committee adopts as its own penalty the university's self-imposed reduction of one grant for the 1990-91 academic year, and a reduction of two grants for the 1991-92 academic year.

G. The university shall be required to show cause why it should not be subject to additional penalties if it does not disassociate (in accordance with Bylaw 19.4.2.6) several representatives

of its athletics interests and other individuals who were involved in violations found in this case {reference: Part II-B-1, Part II-B-3, Parts II-B-4 and II-B-5, Part II-A, Part II-C-2 and Part II-C-1 of this report}.

H. Due to his involvement in the violations of NCAA legislation found in this case, the former men's head basketball coach will be informed in writing by the NCAA that in the event he seeks employment as an athletics department staff member at an NCAA member institution during a five-year period (March 12, 1990, to March 12, 1995), he and the involved institution shall be required to appear before the Committee on Infractions in order for the committee to consider whether that member institution should be subject to the show-cause procedures of Bylaw 19.4.2.1-(1), which could limit the former coach's athletically related duties at the new institution for a designated period.

I. Had the men's head basketball coach not resigned (and the remainder of the men's basketball coaching staff been replaced), the committee would have asked the university to show cause why additional penalties should not be imposed on the institution unless other actions were taken relative to the coaching and recruiting activities of the former head coach and the former assistant coaches.

J. The committee adopts as its own action the requirement set forth by the university that athletics grant-in-aid recipients in the sport of men's basketball will be required to live in university housing at least during the period of this probation.

[NOTE: Should Marshall University appeal either the findings of violations or proposed penalties in this case to the NCAA Council subcommittee of Division I members, the Committee on Infractions will submit an expanded infractions report to the members of the Council who will consider the appeal. This expanded report will include additional information in accordance with Bylaw 32.8.5. A copy of the committee's report would be provided to the institution prior to the institution's appearance before the Council subcommittee and, as required by Bylaw 32.8.6, would be released to the public.

Also, the Committee on Infractions wishes to advise the institution that when the penalties in this case become effective, the institution should [Page 10] take every precaution to ensure that their terms are observed; further, the committee intends to monitor the penalties during their effective periods, and any action contrary to the terms of any of the penalties shall be considered grounds for extending the institution's probationary period, as well as to consider imposing more severe sanctions in this case, and finally, should any actions by NCAA Conventions directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.]

NCAA COMMITTEE ON INFRACTIONS

Roy F. Kramer

Beverly E. Ledbetter

John E. Nowak

Patricia A. O'Hara

Milton R. Schroeder

D. Alan Williams (chair)

DAW:cg

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